

707 KAR 1:350. Placement decisions.

RELATES TO: KRS 157.200, 157.220, 157.224, 157.226, 157.230, 157.250, 157.260, 157.270, 157.280, 157.285, 157.290, 157.360, 158.030, 158.100, 158.150, 160.290, 34 C.F.R. 300.1-300.181, 20 U.S.C., 1400-1419

STATUTORY AUTHORITY: KRS 156.070(1), 156.160, 157.220, 157.224, 157.260, 167.015

NECESSITY, FUNCTION, AND CONFORMITY: KRS 157.200 to 157.290 establish the statutory framework for special education programs in local school districts. KRS 157.220 requires the Kentucky Board of Education to adopt rules and administrative regulations for proper administration of these programs. KRS 156.035 authorizes the Kentucky Board of Education to implement any act of Congress appropriating funds to the state and to provide for the proper apportionment and disbursement of these funds in accordance with state and federal laws. 20 U.S.C. 1407 and 1412 and 34 C.F.R. 300.100 require that policies and procedures be adopted to assure the apportionment and disbursement of federal funds for exceptional children programs in accordance with applicable laws. This administrative regulation establishes requirements for making placement decisions about children with disabilities.

Section 1. Placement Decisions. (1) An LEA shall ensure that to the maximum extent appropriate, children with disabilities, including children placed by the LEA in public or private institutions or other care facilities, are educated with children who are nondisabled. The LEA shall ensure that special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if education in the regular education environment with the use of supplementary aids and services cannot be satisfactorily achieved due to the nature or severity of the disability.

(2) An LEA shall ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.

(3) The continuum shall include the alternative placements of:

- (a) Instruction in regular classes;
- (b) Special classes;
- (c) Special schools;
- (d) Home instruction; and
- (e) Instruction in hospitals and institutions.

(4) The LEA shall make provision for supplementary services to be provided in conjunction with regular class placement.

(5) In determining the educational placement of a child with a disability, the LEA shall ensure that the placement decision is made by the ARC in conformity with the least restrictive environment provisions.

(6) A child's placement shall be:

- (a) Determined at least annually;
- (b) Based on the child's IEP; and
- (c) As close as possible to the child's home.

(7) Unless the IEP of a child with a disability requires some other arrangement, the child shall be educated in the school that he would attend if nondisabled.

(8) In selecting the least restrictive environment, consideration shall be given to any potential harmful effects on the child or on the quality of services that he needs.

(9) A child with a disability shall not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

(10) In providing or arranging for the provision of nonacademic and extracurricular services and activities, an LEA shall ensure that a child with a disability participates with nondisabled

children in those services and activities to the maximum extent appropriate to the needs of the child.

Section 2. Class Size. (1) An LEA shall provide special education for each child with a disability in accordance with the following maximum caseloads for special classes:

- (a) Emotional-behavior disability is eight (8);
- (b) Functional mental disability is ten (10);
- (c) Hearing impairment is six (6);
- (d) Mild mental disability is fifteen (15);
- (e) Multiple disabilities is ten (10);
- (f) Orthopedic impairment is sixteen (16);
- (g) Other health impairment is sixteen (16);
- (h) Specific learning disability for primary is ten (10) and for secondary is fifteen (15); and
- (i) Visual impairment is ten (10).

(2) An LEA shall provide special education for each child with a disability in accordance with the following maximum caseloads for resource classes:

- (a) Emotional-behavior disability is eight (8);
- (b) Functional mental disability is eight (8);
- (c) Hearing impairment is eight (8);
- (d) Mild mental disability is ten (10);
- (e) Multiple disabilities is eight (8);
- (f) Orthopedic impairment is ten (10);
- (g) Other health impairment is ten (10);
- (h) Specific learning disability is ten (10); and
- (i) Visual impairment is eight (8).

(3) Children with disabilities that meet the definition of autism; deaf-blindness; developmental delay for ages six (6), seven (7), and eight (8); and traumatic brain injury shall be served in regular classes, special classes, or resource classes as determined by the ARC.

(4) If a teacher of exceptional children provides services through the collaborative model, the maximum caseload shall not exceed twenty (20) children with disabilities for secondary, and fifteen (15) children with disabilities for primary.

(5) Pursuant to KRS 157.360, if caseload for special classes or class size for resource classes exceeds the maximum specified in this section for thirty (30) days, an LEA shall submit a waiver request to the Kentucky Department of Education.

Section 3. Case Load for Resource Teachers. Caseloads for resource teachers shall refer to the maximum number of student records a teacher may be assigned. An LEA shall make those assignments based on the following:

- (1) Emotional-behavioral disability is fifteen (15);
- (2) Functional mental disability is ten (10);
- (3) Hearing impairment is eight (8);
- (4) Mild mental disability for primary is fifteen (15) and for secondary is twenty (20);
- (5) Multiple disabilities is ten (10);
- (6) Orthopedic impairment is twenty (20);
- (7) Other health impairment is twenty (20);
- (8) Specific learning disability for primary is fifteen (15) and for secondary is twenty (20);
- (9) Visual impairment is ten (10); and
- (10) Speech language pathologist caseload limits as contained in KRS 334A.190. (26 Ky.R. 2143; Am. 27 Ky.R. 167; 505; eff. 8-14-2000; 33 Ky.R. 3488; 34 Ky.R. 563; eff. 11-5-2007.)